OFFICE OF THE PUBLIC DEFENDER PERFORMANCE REVIEW REPORT

INTRODUCTION

This has been a good year for the Office of the Public Defender. The Department has added new positions and programs which have greatly improved the quality of services provided for our clients. The end of prolonged labor negotiations with the Public Defender Association saw the restoration of unfunded attorney positions. Once these positions were filled we were once again able to accept all of the felony cases referred to us for representation. In addition, the Department was able to increase staffing through funding from the AB109 realignment funds, which enabled us to meet our long-term goal of providing representation for all clients at the first court appearance. As a result of these changes, morale in the Department has improved dramatically. I anticipate that in the upcoming year we will continue to see a renewed, vibrant and productive Office of the Public Defender.

I. DEPARTMENT MANDATE

The Office of the Public Defender is mandated to provide competent legal representation for indigent persons charged with crimes in Contra Costa County. This mandate is governed by the Sixth Amendment of the United States Constitution and California Government Code Section 27706. In addition to the primary mandate to represent persons charged with criminal offenses, the Department is appointed to represent persons in an array of other circumstances in which their liberty is at stake.

II. MAJOR PROGRAM DESCRIPTIONS

A. PUBLIC DEFENDER

The categories of cases for which the Department provides representation are as follow:

- 1. Adult criminal (felony and misdemeanor)
- 2. Adult homicides (including death penalty cases)
- 3. Felony probation violations
- 4. Felony violations of Post Release Community Supervision
- 5. State parole violations (starting July 1, 2013)
- 6. Misdemeanor probation violations
- 7. Juvenile delinquency (misdemeanor and felony)
- 8. Juvenile homicides
- 9. Juveniles in placement facilities
- 10. Sexually violent predators
- 11. Civil commitments due to insanity (NGI)
- 12. Civil commitment conservatorships (LPS)
- 13. Habeas corpus petitions for life inmates denied parole
- 14. Representation for inmates seeking DNA testing
- 15. Clean slate expungement motions (felony and misdemeanor)

- 16. Contempt cases in family court proceedings (OSC)
- 17. Specialty courts: Behavior Health court; zero tolerance domestic violence court; Prop 36 drug court; and FADS court (felony alternative sentencing).

These services are provided to West County citizens in our Richmond office and to Central and East County citizens at our Martinez office.

B. ALTERNATE DEFENDER'S OFFICE

The Alternate Defender's Office (ADO) represents clients for whom the main office declares a conflict of interest. The most common examples of this are if two persons are charged on the same complaint with the same offense, or if the main office represents a witness in an ongoing case. The Alternate Defender handles adult felony cases, adult homicides and death penalty cases, juvenile delinquency cases, and a small number of misdemeanor cases.

C. EMPLOYEE DISTRIBUTION

Main Branch Employees

CLASS	ALLOCATED POSITIONS		
Public Defender and Management Attorneys	5		
Deputy Public Defender IV	12		
Deputy Public Defender I-III (deep class)	29		
Deputy Public Defender Special Assignment*	13		
Investigators	10		
Paralegals	7		
Social Worker	1		
Support Employees	13		

^{*} PD Special Assignment positions are outside the merit system

Alternate Defender Employees

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CLASS ALLOCATED POSI				
Management Attorneys	1			
Deputy Public Defender IV	3			
Deputy Public Defender I-III (deep class)	7			
Investigators/Paralegals	0			
Support Employees	3			

III. DEPARTMENT ACCOMPLISHMENTS - INTERNAL

A. DEPARTMENT PERFORMANCE BY CASELOAD

The Department opened 14,637 cases in FY 2012-2013, a slight increase (3.8%) over the previous year. As of mid-November of 2012, with the addition of new positions, the Department was able to drastically reduce the number of cases

referred to the conflicts panel due to understaffing. Significantly, felony referrals to the Public Defender's Office were up this year by 329 cases – a 9.3% increase over the previous year, with probation violation filings up by 21%. By contrast, misdemeanor referrals were down a by 11% and juvenile referrals were down by about 25%. The actual numbers are set forth in the table below.

Type of Case	Number of Cases Referred FY 2012-13			
Misdemeanors	4693			
Felonies	3851			
Juvenile	1145			
LPS	628			
Prob. violations	3761			
Clean slate	674			
Miscellaneous	469			
Total cases referred	15,221			
Overload to conflicts	(477)			
Regular conflicts	(107)			
Total cases handled	14,637			

B. ATTRACTING AND RETAINING A QUALIFIED AND DIVERSE STAFF

The following table demonstrates the racial diversity and gender makeup of our current attorney staff (including Special Assignment attorneys):

ATTORNEY PROFILE	Male	Female	Total	Percent
Caucasian	23	24	47	66%
Hispanic/Latino	1	5	6	9%
African American	2	5	7	10%
Pacific Is/Asian	4	7	11	15%
Native American	0	0	0	0%
Total	30	41	71	100%
Percent	42%	58%		

C. TRAINING AND STAFF DEVELOPMENT

The Department's Training Committee continues to develop, coordinate and present training seminars and workshops to keep our attorneys and legal support staff abreast of current legal developments. These sessions are accredited by the State Bar of California to provide mandatory continuing legal education for our attorneys.

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¹ These figures are a projection based on statistics through May 2013.

IV. DEPARTMENT ACCOMPLISHMENTS - EXTERNAL

A. BRINGING THE DEPARTMENT BACK FROM THE BRINK

By far the most significant accomplishment over the past year has been the revitalization of the Department as a whole. With the restoration of frozen attorney positions and the addition of new positions through AB109 funding, the Department has been able to rebuild and restore its attorney staff to the point that we no longer have to turn away cases. The morale of the Department at all levels and in all job assignments has improved greatly with the knowledge that we are once again a fully staffed and productive Department able to serve all of our clients with the care, professionalism and resources they require.

The renewal of the Department was particularly meaningful this year, as the nation marked the 50th anniversary of the Supreme Court decision in *Gideon v. Wainwright* which ensured equal access to justice for all persons accused of crime, regardless of income. The Department was honored to be recognized by the Board of Supervisors with a Resolution acknowledging the hard work and dedication of the Public Defender staff and declaring March 2013 as the "Month of Gideon" in Contra Costa County.

B. ARRAIGNMENT COURT EARLY REPRESENTATION (ACER) PROGRAM

A major accomplishment of the Department this past year was the establishment of the Arraignment Court Early Disposition (ACER) program. Beginning in January of 2013, thanks to funding through realignment funds, we now have attorneys present in all arraignment courts available to represent referred clients on the date of their first appearance in court. Arraignment court representation has been a long-time goal of the Department and we are particularly pleased that we are finally able to provide this service to our clients. As a result of the successful implementation of ACER, we have been able to help reduce the pretrial population in the jail, as well as cut down on the numbers of court appearances and eliminate some court calendars. Accordingly, in addition to the primary goal of providing expeditious representation for our clients, this program has resulted in financial savings to the court and the Sheriff's Department.

V. GOALS FOR THE COMING YEAR

A. EXPANSION OF EARLY DISPOSITION CALENDAR TO CENTRAL/EAST

In coordination with the Court and the Office of the District Attorney, beginning in July of 2013 we will expand the Early Disposition Program to cover all appropriate cases county-wide. Over a year ago our Department enlisted the District Attorney's office to launch a pilot Early Disposition Calendar in West County. The EDC program in West County has resulted in the early resolution of many low-level felony cases, diverting these cases out of the system at an early stage. We have now expanded this model to Central/East cases as of July 2013.

It is anticipated that with a county-wide EDC program we will continue to divert low-level felony cases out of the system at an early stage as appropriate.

B. COORDINATE WITH JUSTICE PARTNERS TO PLAN FOR A COUNTY PRETRIAL SERVICES PROGRAM

As the state continues to grapple with the changes brought about by AB109, there has been a renewed focus on the need to reduce the numbers of persons incarcerated in county jail awaiting trial. This population, referred to as the pretrial population, take up the vast majority of beds in our local jails—beds that are increasingly needed for persons now sentenced to local custody to serve their time. In the AB109 budget for FY 2013-2014, the Board of Supervisors allocated monies to establish a pretrial services program in Contra Costa County, with the goal being to reduce the pretrial population while maintaining public safety through supervision in the community. This Department has been participating with a mall working group of justice partners to see that we put in place the best possible pretrial services program for our County. We hope to have this program up and running by the end of the calendar year.

C. SECURE A CASE MANAGEMENT SYSTEM

In the coming year I will continue to work with the County to secure a desperately needed case management system for our Department. Hopefully this long-delayed project will get underway this year.

D. REVAMP EVALUATION PROCESS

The employee evaluation process for this Department has become outdated and unwieldy. In the coming year I hope to revamp and simplify the process which in turn will ensure that all evaluations are completed in a timely and meaningful fashion.

E. UPDATE THE DEPARTMENT WEBSITE

The Public Defender website needs to be updated and modernized. I hope to be able to address this in the coming year.